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CHARLES ELMORE CROPLEY
CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1945.

No. 190

AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, AMERICAN NATIONAL SAFE DEPOSIT COMPANY, MELVIN L. STRAUS AND J. H. KLUG,

Petitioners,

vs.

NATIONAL LABOR RELATIONS BOARD,

Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SEVENTH CIRCUIT, AND BRIEF IN SUPPORT THEREOF.

LEWIS F. JACOBSON,
DAVID SILBERT,
33 North La Salle Street,
Chicago, Illinois,
Attorneys for Petitioners.

THE GUNTHORP-WARREN PRINTING COMPANY, 310 WEST JACKSON, CHICAGO

INDEX.

(For page references omitted please refer to Petition for Writ of Certiorari to the United States Circuit Court of Appeals for the Seventh Circuit in case of *Northern Trust Co.* v. *National Labor Relations Board* this day filed herein.)

	PAGE
Petition	1
Opinions below	2
Jurisdiction	2
Statement of the matter involved	2
Questions presented	3
Reasons for granting the writ	3
Supporting brief	
Opinions below	
Jurisdiction	
Statement of the case	
Errors to be assigned	
Summary of Argument	
Argument	
I. The Court has the right, and it must, upon the present application, determine the question as to whether the Petitioner Bank is in commerce or affects commerce within the meaning of the National Labor Relations Act and specifically within the meaning of the Commerce Clause of the Federal Constitution	

II. A local bank as such is not necessarily engaged in commerce within the meaning of the National Labor Relations Act or in the Commerce Clause of the Federal Constitution nor does it necessarily affect such commerce .....

III. If, as a matter of construction the National Labor Relations Act, in a proceeding to enforce Board subpoenas in connection with an inquiry under Section 9 (c), is precluded from inquiring into the question as to whether Petitioner Bank is engaged in commerce or its activities affect commerce, the Act to that extent is unconstitutional.....

IV. Local trust companies and safety deposit companies are creatures of the several states and wholly within the control of the states subject to such Federal control as may be exercised to regulate the public finance.....

V. The subpoena duces tecum is too broad and amounts to an unreasonable search and seizure .....

Appendix .....

CASES CITED.

American Federal of Labor, et al. v. N. L. R. B. (1939), 308 U. S. 401.....
Associated Press v. N. L. R. B. (1937), 301 U. S. 103..
Consolidated Edison Co. v. N. L. R. B. (1938), 305 U. S. 197 .....
Crowell v. Benson, 285 U. S. 22.....
Cudahy Packing Co. v. Fleming (C. C. A. 8, 1941), 122 F. 2d 1005.....
Cudahy Packing Co. v. N. L. R. B. (C. C. A. 10), 117 F. 2d 692.....
Davis v. Elmira Savings Bank, 161 U. S. 275.....
Endicott Johnson Corp. v. Perkins, Secretary of Labor (1943), 317 U. S. 501.....
Farmers' & Mechanics' National Bank v. Dearing, 91 U. S. 29.....
Federal Trade Commission v. American Tobacco Co. (1924), 264 U. S. 298.....
First National Bank of San Jose v. California, 262 U. S. 366.....
Fleming v. Montgomery Ward Co. (C. C. A. 7), 114 F. 2d 384 .....
General Tobacco & Grocery Co. v. Fleming (C. C. A. 6, 1942), 125 F. 2d 596.....
Gray v. Powell (1941), 314 U. S. 402.....
Hale v. Henkel, 201 U. S. 43, 77.....
Hecht Co. v. Bowles, 321 U. S. 321.....
Inland Empire, etc., et al. v. Millis, et al., ... U. S. ....., No. 613, Oct. Term 1944, decided June 11, 1945.
Interstate Commerce Commission v. Brimson, 154 U. S. 447 .....
Interstate Commerce Commission, et al. v. City of Jersey City, et al., 322 U. S. 503, 88 L. Ed. 1064.....
McCulloch v. Maryland, et al., 4 Wheat. 314.....

Myers v. Bethlehem Shipbuilding Corp., 303 U. S. 41, 49 .....
Newport News Shipbuilding & Dry Dock Co. v. Schauffler, 303 U. S. 54 .....
News Printing Company, Inc. v. Walling, 8 W. H. R. 550 (May 28, 1945) .....
N. L. R. B. v. Jones & Laughlin Steel Corp., 301 U. S. 1.
Oklahoma Press Publishing Co. v. Walling, 8 W. H. R. 550 (May 28, 1945) .....
Osborn, et al. v. President, Directors and Company of the Bank of the United States, 9 Wheat. 738 .....
Schechter v. United States, 295 U. S. 495 .....
United States v. Wrightwood Dairy Co., 315 U. S. 110 ..
Walling v. Benson, 137 F. 2d 501 .....
Walling v. LaBelle Steamship Co., 148 F. 2d 198 .....
Walling v. News Printing Co., 148 F. 2d 57 .....
Walling v. Oklahoma Press Publishing Co., 147 F. 2d 658 .....
Wickard v. Filburn, 317 U. S. 111 .....

CONSTITUTION.

Article I, Section 8 .....

STATUTES.

National Labor Relations Act (29 U. S. C. A. 151), Secs. 9, 10, 11 .....
Judicial Code (U. S. C. A., Title 28), Sec. 41, Sec. 24 ...
National Banking Code (U. S. C. Title 12), Sec. 484 ...
Ill. Rev. Stat. 1943, Ch. 16½, Sec. 8 .....

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AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, AMERICAN NATIONAL SAFE DEPOSIT COMPANY, MELVIN L. STRAUS AND J. H. KLUG,

Petitioners,

vs.

NATIONAL LABOR RELATIONS BOARD,

Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS, FOR THE SEVENTH CIRCUIT.

To the Honorable the Chief Justice and the Associate Justices of the Supreme Court of the United States:

Your Petitioners, American National Bank and Trust Company of Chicago, American National Safe Deposit Company, Melvin L. Straus and J. H. Klug, respectfully pray for a writ of certiorari to review the judgment herein of the United States Circuit Court of Appeals for the Seventh Circuit (R. 112-113), which judgment affirmed an order of the District Court for the Northern District of Illinois, Eastern Division (R. 76-81, Trans. Dist. Ct. 123-128) enforcing certain subpoenas hereinafter referred to.

Opinions Below.

The opinion of the United States Circuit Court of Appeals (R. 102-112) is reported in 148 Fed. (2d) 24.

The opinion of the District Court (R. 69-76 Trans. Dist. Ct. 111-121) is reported in 56 Fed. Supp. 335.

Jurisdiction.

The judgment of the court below was entered on February 28, 1945 (R. 112-113). Petition for rehearing duly filed (R. 113) was denied on April 5, 1945 (R. 114).

The jurisdiction of this Court is invoked under Section 240 (a) of the Judicial Code as amended (Sec. 347 (a), Ch. 9, Title 28, United States Code.

STATEMENT OF MATTER INVOLVED.

(Reference to Petition for Writ of Certiorari to the United States Circuit Court of Appeals for the 7th Circuit and Brief in Support Thereof in Parallel Case Entitled "The Northern Trust Company, et al. v. National Labor Relations Board.")

This case is a companion case in all respects parallel to the case described in the Petition for Certiorari to the United States Circuit Court of Appeals for the Seventh Circuit filed in this Honorable Court, entitled "**The Northern Trust Company**, James A. Russell, Maurice E. Graves and E. LeRoy Hall, Petitioners, *vs.* **National Labor Relations Board**, Respondent", on or about July 1, 1945.

The questions of fact and law are substantially the same in both cases.

In the District Court the Judge rendered his memorandum opinion (R. 69-76, Dist. Ct. Trans. 111-12) in the Northern Trust Company case, and by reference applied

it also to this, the American National Bank and Trust Company case.

In the United States Circuit Court of Appeals, both the Northern Trust Company case and the American National Bank, etc. case were argued together. The petitions for rehearing were filed jointly to cover both cases. The opinion of the Circuit Court of Appeals in this case (R. 102-112) was an opinion covering both the Northern Trust Company case and the American National Bank, etc. case.

The counsel for the Petitioners, American National Bank and Trust Company of Chicago, American National Safe Deposit Company, Melvin L. Straus and J. H. Klug, have been continuously engaged in the trial of an imporatnt litigation in the Circuit Court of Cook County from January 16, 1945 to this date, with few interruptions, and therefore, it was arranged between the counsel for the Petitioners herein and the counsel for the Northern Trust Company, to file no separate Statement of the Matter Involved, Questions Presented, Reasons for Granting the Writ and Supporting Brief, etc. in this (American Bank) case, but to refer to the Statement, Brief, Argument, etc. in the Northern Trust Company case, and therefore, we respectfully refer to and hereby adopt from the Petition for Writ of Certiorari of the Northern Trust Company, all of the matters included therein, from pages 3 to 47, inclusive.

Prayer.

We submit that the enforcement of the subpoena in the instant case is in probable conflict with applicable decisions of this court with respect to the subpoena power of administrative agencies, and the authority and jurisdiction of the Federal Courts to inquire into and review the unlawful or improper exercise of such powers by the National Labor Relations Board.

WHEREFORE, your Petitioners pray that a Writ of Certiorari issue under the seal of this Court directed to the United States Circuit Court of Appeals for the Seventh Circuit, to the end that this cause may be reviewed and determined by this Court; that the order and judgment of the said Court of Appeals be reversed by this Court and for such other and further relief as to this Court may seem proper.

Respectfully submitted,

LEWIS F. JACOBSON,
DAVID SILBERT,
33 North La Salle Street,
Chicago, Illinois,
Attorneys for Petitioners.

(We also respectfully refer to and adopt the Brief and Argument in the Northern Trust Co. Case.)